

Remarks

Claims 1-9, 11-19, 21, and 22 are pending in the present application of which claims 1, 6, 11, 16, 21, and 22 are independent.

Claims 1, 5, 6, 11, 15, 21, and 22 are rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,353,764 to Imagawa et al. (hereinafter "Imagawa") in view of U.S. Patent No. 6,922,843 to Herrington et al. (hereinafter "Herrington"). Claims 2, 7, 12, and 17 are rejected under 35 U.S.C. § 103(a) over Imagawa in view of Herrington and U.S. Publication No. 2001/0056225 to DeVito (hereinafter "DeVito"). Claims 3, 8, 13, and 18 are rejected under 35 U.S.C. § 103(a) over Imagawa in view of Herrington, DeVito, and U.S. Patent No. 6,169,842 to Pijnenburg et al. (hereinafter "Pijnenburg"). Claims 4, 9, 14, and 19 are rejected under 35 U.S.C. § 103(a) over Imagawa in view of Herrington and U.S. Patent No. 6,054,981 to Kimoto et al. (hereinafter "Kimoto"). Applicants respectfully traverse the above rejections for at least the reasons set forth below.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 1, 5, 6, 11, 15, 16, 21, and 22 are rejected under 35 U.S.C. § 103(a) over Imagawa in view of Herrington. Applicants respectfully submit that Imagawa and Herrington, taken alone or in combination, fail to disclose, teach, or suggest the subject matter as recited in independent claims 1, 6, 11, 16, 21, and 22.

Claims 1, 6, 11, 16, 21, and 22 recite performing an action item to automatically adjust a media player or device in accordance with action preferences of a user. This subject matter relates to adjusting a media player or device based on user preferences of a user obtained either explicitly or implicitly. For example, a user may specify that he or she likes to pause the media player when the telephone rings unless the call is from a particular telephone number. Alternatively, the user's preferences could be obtained by monitoring the user's interactions in order to define a given set of circumstances and the corresponding action item that should be performed. The action performed upon satisfaction of a condition therefore varies based on the preferences of the user.

Applicants respectfully submit that Imagawa does not disclose, teach, or suggest at least this subject matter. The system of Imagawa determines candidates for the content of control based on the predetermined attribute of the person selected by the operator selection section and his or her peripheral environment. See, for example, column 5, lines 42-47. The predetermined attribute may include the use of a voice or sign language to indicate the content of the control. See, for example, column 5, lines 53-54. After determining the control object and the content of control, the system then applies the determined control on the determined control object. See, for example, column 6, lines 22-29. Thus, while the user's physical actions and spoken words are used to control the device, the user's individual preferences do not change the action taken by the control content candidate determination section of Imagawa. In other

words, the action taken for a given attribute is the same for each user and is not in accordance with **action preferences of a user**.

In the above-referenced Office Action, the Examiner asserts that the claimed feature of "an action item to be performed to automatically adjust said media player in accordance with action preferences of said user when said condition is satisfied" is disclosed in column 10, lines 40-45 of Imagawa. This section of Imagawa is reproduced below:

In addition, using the people's face, expressions, identity, or age as their attribute, those who are limited in the use of the television or who operate the television inappropriately can be excluded from the candidates for an operator (for example, children cannot operate the television after nine p.m.).

Clearly, the cited section of Imagawa relied on by the Examiner is completely silent with regard to the performance of an action item in accordance with "action preferences of said user" as claimed in the present invention.

Applicants further submit that Imagawa fails to teach or suggest "establishing at least one rule defining a predefined user activity, said rule including at least one condition, additional information external to a user, and an action item to be performed to automatically adjust said media player in accordance with action preferences of said user when said condition is satisfied, **wherein the additional information external to said user includes information selected from the group consisting of information from an electronic program guide and information from a caller identification device**"

Applicants respectfully submit that Herrington fails to remedy the glaring deficiency of Imagawa cited above.

Herrington describes an interactive television program guide system including a program guide database for storing program guide information. See, for example, column 7, lines 24-32. Remote controls for use with the system may include a favorites key to invoke functions related to user preferences and a delete key to delete menu items or express a disinterest in certain user preferences. See, for example, column 9, lines 5-8. The system of Herrington therefore incorporates preferences based on the user's viewing interests, but does not automatically adjust a device based on **action preferences of a user**. In other words, the user preferences described in Herrington are implemented to enable the user to control the program guide in accordance with his or her viewing preferences, not to **automatically adjust the device** in accordance with **action preferences**.

For at least the forgoing reasons, it is respectfully submitted that the combination of Imagawa and Herrington fails to disclose, teach, or suggest performing an action item to automatically adjust a device in accordance with action preferences of a user, as recited in claims 1, 6, 11, 16, 21, and 22.

At least by virtue of the failure of both Imagawa and Herrington to disclose, teach, or suggest the subject matter according to the combinations recited in claims 1, 6, 11, 16, 21, and 22, the Examiner has failed to establish a *prima facie* case of obviousness as required under 35 U.S.C. § 103. Claim 5 depends from claim 1 and is

allowable over Imagawa in view of Herrington at least by virtue of its dependency.

Claim 15 depends from claim 11 and is allowable over Imagawa in view of Herrington at least by virtue of its dependency.

For at least the forgoing reasons, Applicants respectfully request that the rejection of claims 1, 5, 6, 11, 15, 16, 21, and 22 under 35 U.S.C. § 103 be withdrawn.

Claims 2, 7, 12, and 17 are rejected under 35 U.S.C. § 103(a) over Imagawa in view of Herrington and DeVito. Claim 2 is allowable based at least on its dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1. Claim 7 is allowable based at least on its dependence from claim 6 for the reasons stated above in connection with the rejection of claim 6. Claim 12 is allowable based at least on its dependence from claim 11 for the reasons stated above in connection with the rejection of claim 11. Claim 17 is allowable based at least on its dependence from claim 16 for the reasons stated above in connection with the rejection of claim 16. DeVito fails to overcome the deficiencies in Imagawa and Herrington described above. For at least the forgoing reasons, Applicants respectfully request that the rejection of claims 2, 7, 12, and 17 under 35 U.S.C. § 103 be withdrawn.

Claims 3, 8, 13, and 18 are rejected under 35 U.S.C. § 103(a) over Imagawa in view of Herrington, DeVito, and Pijnenburg. Claim 3 is allowable based at least on its dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1. Claim 8 is allowable based at least on its dependence from claim 6 for the reasons stated above in connection with the rejection of claim 6. Claim 13 is allowable

based at least on its dependence from claim 11 for the reasons stated above in connection with the rejection of claim 11. Claim 18 is allowable based at least on its dependence from claim 16 for the reasons stated above in connection with the rejection of claim 16. DeVito and Pijnenburg fail to overcome the deficiencies in Imagawa and Herrington described above. For at least the forgoing reasons, Applicants respectfully request that the rejection of claims 3, 8, 13, and 18 under 35 U.S.C. § 103 be withdrawn.

Claims 4, 9, 14, and 19 are rejected under 35 U.S.C. § 103(a) over Imagawa in view of Herrington and Kimoto. Claim 4 is allowable based at least on its dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1. Claim 9 is allowable based at least on its dependence from claim 6 for the reasons stated above in connection with the rejection of claim 6. Claim 14 is allowable based at least on its dependence from claim 11 for the reasons stated above in connection with the rejection of claim 11. Claim 19 is allowable based at least on its dependence from claim 16 for the reasons stated above in connection with the rejection of claim 16. Kimoto fails to overcome the deficiencies in Imagawa and Herrington described above. For at least the forgoing reasons, Applicants respectfully request that the rejection of claims 4, 9, 14, and 19 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

In view of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

If the Examiner believes that anything further is necessary to place the application in condition for allowance, the Examiner is requested to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

/ John A. Merecki /

Dated: June 6, 2007

John A. Merecki
Reg. No. 35,812

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, NY 12207
(518) 449-0044 - Telephone
(518) 449-0047 - Facsimile